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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,974	11/30/2001	Daniela Salvemini	MPI 8313.3	5898

26263 7590 07/15/2003

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EXAMINER

FONDA, KATHLEEN KAHLER

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 07/15/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,974

Applicant(s)

SALVEMINI, DANIELA

Examiner

Kathleen Kahler Fonda, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The Examiner again asserts that Applicant is not entitled to the claimed benefit to application number 09/634,152, now U.S. Patent 6,395,725, because 09/634,152 does not provide support for the invention now claimed. Applicant's arguments filed 06-02-03 have been fully considered but they are not persuasive. Applicant correctly states the formal requirements for claiming benefit of a prior application. The Examiner does not dispute that Applicant has complied with the formal requirements. However, the claimed benefit cannot be accorded because there is no support for the presently claimed invention in application number 09/634,152, now U.S. Patent 6,395,725. See MPEP 2133.01 and case law cited therein.

Claims 1, 4, and 8 are again objected to, as set forth in the Office action of 12-06-02, because of the following informalities: None of these claims ends with a period. Appropriate correction is required. Applicant's response of 06-02-03 did not address this objection.

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Applicant is again advised, as set forth in the Office action of 12-06-02, that should claim 8 be found allowable, claims 9 and 10 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Claims 9 and 10 merely recite an intended use for the composition of claim 8, and thus are not further limiting. Applicant's response of 06-02-03 did not address this advisory.

Claims 1, 2, 4-6, and 8-10 are again rejected, as set forth in the Office action of 12-06-02, under 35 U.S.C. 102(b) as being anticipated by SALVEMINI et al. (45).

Applicant's arguments filed 06-02-03 have been fully considered but they are not persuasive. Applicant's response of 06-02-03 did not address this rejection, other than to assert that SALVEMINI et al. (45) was not prior art. This argument has been addressed above.

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Claims 1-7 are again rejected, as set forth in the Office action of 12-06-02, under 35 U.S.C. 103(a) as being unpatentable over SALVEMINI et al. (45).

Applicant's arguments filed 06-02-03 have been fully considered but they are not persuasive. Applicant's response of 06-02-03 did not address this rejection, other than to assert that SALVEMINI et al. (45) was not prior art. This argument has been addressed above.

No claim is allowed.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Papers relating to this application may be submitted to Technology Center 1600 by facsimile transmission. The number of ~~the fax machine for official papers in Technology Center 1600 is~~ (703) 308-4556. Any document submitted by facsimile transmission will be considered an official communication unless the cover sheet clearly indicates that it is an informal communication.

INTERNET INFORMATION: Secure and confidential access to patent application status information is now available; see <http://www.uspto.gov/ebc/index.html> for more information. Also, <http://www.uspto.gov/web/offices/ac/comp/fin/clonedefault.htm> may be used to pay patent maintenance fees, pay non-filing application fees, and maintain USPTO deposit accounts.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kathleen Kahler Fonda, at telephone number (703) 308-1620. Examiner Fonda can generally be reached Monday through Friday from 7:30 a.m. until 4:00 p.m. If the Examiner cannot be reached, questions may be addressed to Supervisory Patent Examiner James O. Wilson at (703) 308-4624. Any inquiry of a general nature or relating to the status of this application should be

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directed to the Technology Center 1600 receptionist whose
telephone number is (703) 308-1235.



Kathleen Kahler Fonda, Ph.D., J.D.

Primary Examiner

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